

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Tennessee Turfgrass Council )  
Dist. 8, Map 53, Control Map 53, Parcel 46.00P ) Williamson County  
Personal Property )  
Tax Year 2006 )

## INITIAL DECISION AND ORDER DISMISSING APPEAL

### Statement of the Case

The subject property is presently valued as follows:

<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$36,700	\$11,010

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 12, 2007 in Nashville, Tennessee. The taxpayer was represented by its Executive Secretary, Jim Uden. The Assessor of Property, Dennis Anglin, represented himself.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This appeal involves the latest in a series of forced assessments dating back to 2001. As will be discussed below, the threshold issue before the administrative judge concerns jurisdiction.

In accordance with Tenn. Code Ann. § 67-5-903(a), the assessor of property sent the taxpayer a tangible personal property schedule for tax year 2006. The schedule was not returned and the assessor proceeded to make a forced assessment pursuant to Tenn. Code Ann. § 67-5-903(c). The taxpayer then filed a direct appeal with the State Board of Equalization which was received on October 18, 2006.

The assessor moved to dismiss the appeal on essentially two grounds. First, the taxpayer did not first appeal to the Williamson County Board of Equalization as required by Tenn. Code Ann. § 67-5-903(d). Second, the assessor asserted that the taxpayer's failure to appeal to the local board cannot be excused on the basis of reasonable cause. Mr. Anglin noted that the taxpayer has been forced assessed since 2001.

The taxpayer's representative, Jim Uden, testified that he began his employment with the taxpayer in 2003. Mr. Uden stated that he took no action after the taxpayer was forced assessed in prior years because he did not understand the significance of the term "forced assessment" and simply paid the tax bills. With respect to tax year 2006, Mr. Uden stated that although the taxpayer does not have a problem with mail delivery, he could not recall



receiving either the schedule or forced assessment. According to Mr. Uden, he first became aware of the forced assessment when he received a tax bill on or about October 1, 2006.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

*Associated Pipeline Contractors, Inc.* (Williamson County, Tax Year 1992). See also *John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Williamson County Board of Equalization.

Respectfully, the administrative judge finds that the taxpayer failed to establish reasonable cause for its failure to appeal to the Williamson County Board of Equalization. Initially, the administrative judge must observe that reasonable cause is an equitable remedy and the taxpayer lacks "clean hands" insofar as it has repeatedly neglected to file personal property schedules since 2001. Moreover, since Tenn. Code Ann. § 67-5-508(a)(3) provides that the notice furnished by the assessor "shall be effective when mailed," the Assessment Appeals Commission has ruled repeatedly that merely alleging the notice was not received does not constitute reasonable cause. See, e.g., *Elizabeth and William Benson* (Shelby Co., Tax Years 2001 & 2002); and *Charles R. Coats* (Davidson Co., Tax Year 2001). Finally, the Commission has also repeatedly held that ignorance does not constitute reasonable cause. See, e.g., *Transit Plastic Extrusions, Inc.* (Lewis Co., Tax Years 1990 & 1991) wherein the Commission ruled that "[a] taxpayer who has been properly notified of an



assessment change. . . cannot prevent the imposition of reasonable deadlines for appeal by pleading the. . . lack of awareness or the manner or necessity of appeal.” *Id.* at p. 2.

Based upon the foregoing, the administrative judge finds that the assessor’s motion to dismiss should be granted.

ORDER

It is therefore ORDERED that this appeal be dismissed for lack of jurisdiction and the following value and assessment remain in effect for tax year 2006:

<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$36,700	\$11,010

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

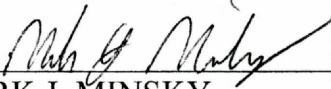
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.



ENTERED this 15th day of February, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Uden  
Dennis Anglin, Assessor of Property